

## Small Business Administration

## § 145.910

the debarment decision or to reduce the time period or scope of the debarment. However, you must put your request in writing and support it with documentation.

### **§ 145.880 What factors may influence the debarring official during reconsideration?**

The debarring official may reduce or terminate your debarment based on—

- (a) Newly discovered material evidence;
- (b) A reversal of the conviction or civil judgment upon which your debarment was based;
- (c) A bona fide change in ownership or management;
- (d) Elimination of other causes for which the debarment was imposed; or
- (e) Other reasons the debarring official finds appropriate.

### **§ 145.885 May the debarring official extend a debarment?**

(a) Yes, the debarring official may extend a debarment for an additional period, if that official determines that an extension is necessary to protect the public interest.

(b) However, the debarring official may not extend a debarment solely on the basis of the facts and circumstances upon which the initial debarment action was based.

(c) If the debarring official decides that a debarment for an additional period is necessary, the debarring official must follow the applicable procedures in this subpart, and subpart F of this part, to extend the debarment.

### **§ 145.890 How may I appeal my debarment?**

(a) If the SBA debarring official issues a decision under § 145.870 to debar you after you present information in opposition to a proposed debarment under § 145.815, you can ask for review of the debarring official's decision in two ways:

(1) You may ask the debarring official to reconsider the decision for material errors of fact or law that you believe will change the outcome of the matter; and/or

(2) You may request that the SBA Office of Hearings and Appeals (OHA), review the debarring official's decision to

debar you within 30 days of your receipt of the debarring official's decision under § 145.870 or paragraph (a)(1) of this section. However, OHA can reverse the debarring official's decision only where OHA finds that the decision is based on a clear error of material fact or law, or where OHA finds that the debarring official's decision was arbitrary, capricious, or an abuse of discretion.

(b) A request for review under this section must be in writing; state the specific findings you believe to be in error; and include the reasons or legal bases for your position.

(c) OHA may, in its discretion, stay the debarment pending review of the debarring official's decision.

(d) The SBA debarring official and OHA must notify you of their decisions under this section, in writing, using the notice procedures at §§ 145.615 and 145.975.

## Subpart I—Definitions

### **§ 145.900 Adequate evidence.**

*Adequate evidence* means information sufficient to support the reasonable belief that a particular act or omission has occurred.

### **§ 145.905 Affiliate.**

Persons are *affiliates* of each other if, directly or indirectly, either one controls or has the power to control the other or a third person controls or has the power to control both. The ways we use to determine control include, but are not limited to—

(a) Interlocking management or ownership;

(b) Identity of interests among family members;

(c) Shared facilities and equipment;

(d) Common use of employees; or

(e) A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

### **§ 145.910 Agency.**

*Agency* means any United States executive department, military department, defense agency, or any other agency of the executive branch. Other agencies of the Federal government are